

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503
Boston, MA 02108
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MELISSA HART,
Appellant

v.

G1-06-43

BOSTON POLICE DEPARTMENT,
Respondent

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Commissioner:

Christopher C. Bowman

DECISION

Pursuant to the provisions of G.L. c. 31, § 2(b), the Appellant, Melissa Hart (hereafter “Hart” or Appellant”) seeks review of the Personnel Administrator’s decision to accept the reasons of the Boston Police Department (hereafter “Appointing Authority”, “City” or “BPD”), bypassing her for original appointment to the position of police officer as she was deemed to be psychologically unfit for appointment to the position. A full hearing was held on September 8, 2006 and October 17, 2006 at the offices of the Civil Service Commission. Six (6) tapes were made of the hearing.

FINDINGS OF FACT:

Forty-three (43) exhibits were entered into evidence at the hearing. Based on these exhibits and the testimony of the following witnesses:

For the Appointing Authority:

- Dr. Julia M. Reade;

For the Appellant:

- Melissa Hart, Appellant;
- Lt. Matthew Spillane;
- Dr. James C. Beck;
- Dr. Mark S. Schaefer;

I make the following findings of facts:

1. The Appellant is a twenty-six (26) year old female from Dorchester who has worked for the Boston Police Department as a Communications Equipment Operator from April 1999 to present. (Testimony of Appellant)
2. The Appellant’s mother has been a police officer with the Boston Police Department for twenty-six (26) years and the Appellant testified that she has always wanted to be a police officer. (Testimony of Appellant)

3. The Appellant took an open examination for the position of police officer and scored a ninety-four (94). (Testimony of Appellant)
4. On December 12, 2005, the Appellant's name appeared on Certification 251238 for the position of female police officer for the Boston Police Department. (Stipulated Facts & Exhibit 32)
5. On or about November 29, 2005, the Appellant met with the Department's Recruitment Investigations Unit and provided them with her Student Officer Application, three (3) letters of personal reference, supervisor/human resources data forms and three confidential neighborhood assessment forms. (Stipulated Facts and Exhibit 2)
6. On January 30, 2006, the Department offered the Appellant a conditional offer of employment as a police officer contingent upon successfully completing the medical and psychological screening components of the hiring process. (Exhibit 1)
7. The Boston Police Department had previously submitted a psychological screening plan to the state's Human Resource Division (HRD) which was approved by HRD in July 2004. (Exhibit 33)
8. On January 26, 2006, the Appellant completed the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) and the Personality Assessment Inventory ("PAI"). (Stipulated Facts)
9. Dr. Schaefer, a licensed psychologist who testified on behalf of the Appellant, testified that the MMPI-2 is the "best researched, grand-daddy of tests" and that it can either be scored by computer or by hand. (Testimony of Dr. Schaefer)

10. . The BPD had the Appellant's MMPI-2 and PAI results scored and interpreted by a computer. (Testimony of Dr. Schaefer)

Summary of MMPI-2 and PAI computer-generated reports

11. The MMPI-2 "Profile Validity" indicated that the Appellant "presented herself in an overly favorable light, minimizing her faults and attempting to make a favorable impression. Her responses to the MMPI-2 items probably do not present an accurate picture of her personality. The clinical profile is likely to underestimate any problems she is having." (Exhibit 3)
12. The MMPI-2 Personal Adjustment indicated that, "although her response pattern is generally defensive, as indicated in the validity section of this report, interpretations are provided for the clinical and content scales. It should be kept in mind that the applicant has not cooperated sufficiently with the evaluation to provide an open appraisal." (Exhibit 3)
13. The MMPI-2 also noted in the Possible Employment Problems section that "in terms of personality, law enforcement applicants with this MMPI-2 profile tend to be, in some respects, well suited for police work. They can function independently and can tolerate situations well. Individuals with this profile are typically presenting the impression that they are well adjusted, manage psychological and interpersonal conflict well, and are highly motivated to work. It should be kept in mind that this applicant's approach to the test was defensive and that she gave an overly favorable self-appraisal. Had she responded more openly, she may have endorsed more symptoms." (Exhibit 3)

14. The MMPI-2 notes in the Content Themes section that the Appellant “may be rigid and inflexible in her thinking” and “may be unusually sensitive to criticism.” (Exhibit 3)

15. The PAI noted that the Appellant would have a “moderate risk of receiving a ‘poorly suited’ rating;’ a “high risk” of job-related problems, integrity problems, alcohol use concerns, illegal drug use concerns and substance abuse proclivity; and a “moderate risk” of anger management problems. (Exhibit 4)

Opinions of Appointing Authority Psychiatrists (Dr. Marcia Scott & Dr. Julia M. Reade)

16. Subsequent to taking the MMPI-2 and PAI examinations, the Appellant was interviewed by two Appointing Authority psychiatrists, Dr. Marcia Scott and Dr. Julia M. Reade. Dr. Reade testified at the Commission hearing for the Appointing Authority.

17. The Appellant’s interview with Dr. Scott lasted approximately fifteen minutes.
(Testimony of Appellant)

18. Based on the interview with the Appellant, Dr. Scott reported that, “throughout the interview she smiled with little affect and was unable to think about or discuss negative material that surfaced in the record, interview and testing. She could acknowledge past behaviors that were documented but confronted with those difficulties she tended to blame others or circumstances or say it was a long time ago. She could never reflect on reasons for past problems, imperfections or negative test results.” (Exhibit 5)

19. Dr. Scott summarized that, “Ms. Hart appears to manage internal stresses with unrealistic denial and externalization to maintain rigid control. She had an episode of

impulsive antisocial acting out and a period of significant multi-substance abuse in early adulthood. Since then she has worked in the Department in a responsible structured job and done well. However, interview and testing reflect severe anxiety and underlying impulsivity. She had little ability to reflect on the traits that led to her adolescent behavior. She would not reflect on and at times said she did not remember her reasoning in stressful situations.” (Exhibit 5)

20. Dr. Scott concluded that, “there is no current evidence of an Axis I mental disorder or current mental impairment, but her history, interview and testing indicate personality traits that would interfere with her ability to manage the stresses and make the judgments required of an armed police officer.” (emphasis added) (Exhibit 5)

21. On February 14, 2006, the Appellant was interviewed by Dr. Julia M. Reade, an Appointing Authority psychiatrist, for a “Second Opinion Psychiatric Review”. (Exhibit 6)

22. Dr. Reade is a Board Certified psychiatrist who has worked for the BPD for 8-9 years conducting Second Level Psychiatric Interviews for police officer recruits. She is Board Certified in General Psychiatry and Forensic Psychiatry and has extensive experience in Law and Psychiatry as well as Occupational Psychiatry. (Testimony of Dr. Reade and Exhibit 43)

23. Dr. Reade has conducted approximately 200 Second Level Psychiatric Screenings for the Boston Police Department. (Testimony of Dr. Reade)

24. Dr. Reade conducts Second Level Psychiatric Screening interviews when Dr. Scott deems an applicant as not psychologically fit to be a Boston police officer and when an applicant was psychologically bypassed in the past, has reapplied and subsequently

deemed psychologically fit by Dr. Scott or another first level screener. (Testimony of Dr. Reade)

25. Dr. Reade has overruled Dr. Scott or the first level screener and has deemed recruits as psychologically fit to be Boston police officers approximately 10%-20% of the time. (Testimony of Dr. Reade)

26. Dr. Reade testified that the Department's Psychological Screening Process is in place because the Boston Police Officer position is a complicated job, a high stakes job, that requires autonomy, the ability to get along well with others, adjust to difficult circumstances, review and be accountable for your own behaviors, adjust to a hierarchal structure, be flexible, deal with very high levels of stress and deal with high levels of boredom. She also testified that the process is important to protect the safety of the general public; the safety of the actual recruit/police officer; the safety of their partner(s); and the reputation of the Department. (Testimony of Dr. Reade)

27. After the interview, Dr. Reade generated a summary report that was not meant to be an exhaustive report that delineates every specific detail, reason and rationale for her recommendation to bypass. (Testimony of Dr. Reade and Exhibit 6)

28. Prior to the interview, Dr. Reade reviewed the Appellant's background documents, including the recruit investigation file and personal data questionnaire, and her MMPI-2 and PAI test scores/results. (Testimony of Dr. Reade)

29. Dr. Reade used the MMPI-2 and the PAI to help focus her inquiry during her interview with the Appellant. (Testimony of Dr. Reade)

30. Dr. Reade did not base her recommendation to bypass solely on the Appellant's MMPI-2 and PAI test results. (Testimony of Dr. Reade)

31. Dr. Reade's observations of her interview with the Appellant were subsequently recorded in her summary report, which in part, stated, "[s]he was notably tense, neatly dressed, attractive, and her grooming was adequate. She smiled fixedly throughout the interview and gave short, evasive unresponsive answers to my questions. She jiggled her foot anxiously and fidgeted intermittently. When asked to provide details – even about neutral or positive topics, Ms. Hart looked frozen and panic-stricken, and offered sparse and concrete responses. . . . When asked about more emotionally charged events, like the absence of her father from her life, Ms. Hart gave little to no information, even in response to specific questions, and repeatedly stated that she had never wondered about or missed her father. She was similarly unforthcoming about when asked about her juvenile criminal record, her reasons for transferring high schools, and her decision to leave Bunker Hill Community College after a semester. . . . Ms. Hart could not discuss her adolescent drug use, her brief psychological treatment, her car accidents or her decision to take time off after high school. She was unable to reflect on any of her decisions or to consider her role in a given event." (Exhibit 6)
32. Dr. Reade concluded her report stating that, "[w]ith respect to her ability to function as a police officer, Ms. Hart, in my opinion, would have significant difficulties because of her profound anxiety, her evasiveness, her difficulty managing stressful emotional situations and her lack of insight into her actions or decisions." (Exhibit 6)
33. At the Commission hearing, Dr. Reade testified that the Appellant's anxiety level at the interview was "off the charts"; that she became "panic-stricken" when asked

routine questions about her boyfriend and had a “deer-in-the-headlights” look when asked other routine questions. (Testimony of Dr. Reade)

34. In a letter dated April 3, 2006 from Robin W. Hunt, the Boston Police Department Human Resources Director, the Appellant was informed, among other things, that the “results of your psychological screening indicate that you cannot adequately perform the essential functions of the public safety position for which you have applied and a reasonable accommodation is not possible. Therefore you will not be appointed as a police officer at this time.” (Exhibit 8)

35. In a letter dated April 3, 2006, the BPD notified HRD that the Appellant failed to meet the psychological criteria for appointment as a police officer and that it was bypassing her for the position of female police officer. Specifically, the BPD stated that it was relying upon Dr. Reade’s second opinion report, concurred to by Dr. Marcia Scott, which psychologically disqualified the Appellant. (Exhibit 9)

36. On June 15, 2006, HRD accepted the Department’s reasons for bypassing the Appellant. (Exhibit 10)

Opinions of Appellant Psychiatrists (Dr. Mark Schaefer & Dr. James Beck)

37. On July 28, 2006, Dr. James Beck interviewed and performed an independent psychological consultation of the Appellant. (Exhibit 40)

38. Dr. Beck is a licensed psychologist and board certified psychiatrist who is a graduate of Harvard and Yale. He has taught at the Harvard Medical School for over thirty (30) years. Dr. Beck has conducted numerous police “fitness for duty” interviews, but was unable to recall if had participated in any “prescreening” for police recruits. (Testimony of Dr. Beck)

39. In the 1970s, Dr. Beck served as a consultant to the state's Human Resources Division (then the Personnel Administration) and participated in earlier versions of HRD's regulations with respect to psychological evaluations. He has never worked with the City of Boston Police Department. (Testimony of Dr. Beck)
40. Dr. Beck interviewed the Appellant's Recruit Application materials, the results of her MMPI-2 and the PAI, as well as the reports of Dr. Scott and Dr. Reade disqualifying the Appellant. (Exhibit 40)
41. Dr. Beck testified that, in his opinion, there absolutely must be a diagnosable psychological disorder in order to bypass someone. (Testimony of Dr. Beck)
42. Dr. Beck testified that there was no psychological disorder that would disqualify the Appellant in this case. (Testimony of Appellant; Exhibit 40)
43. On this key point, Dr. Reade, the Appointing Authority's psychiatrist, disagreed stating that a person's "psychological traits and characteristics" could disqualify an applicant for a job as a police officer. Moreover, according to Dr. Reade, a mental "disorder" can comprise "a constellation of enduring characteristics or traits that affect a person's ability to perform." (Testimony of Dr. Reade)
44. The issue of whether or not the presence of a psychological "disorder" is the bar for justifying a psychological bypass was a central issue throughout this proceeding. In regard to this issue, the Boston Police Department Psychological Screening Plan, which was approved by HRD states:

"The goal of this proposed psychological screening process is to identify candidates who may exhibit evidence of a mental disorder as described in the Regulations for Initial Medicine and Physical Fitness Standards Tests for Municipal Public Safety Personnel, promulgated by the Human Resource Division and as recommend (sic) by the Police Psychological Services Section of the International Association of Chiefs

of Police Pre-Employment Psychological Evaluation Guidelines. This process will be used to detect through a review of the background investigation, personal history as provided by the candidate, psychological testing, interviews, any psychological or behavioral characteristics, which would significantly interfere with the candidate's successful performance of the essential functions duties (sic) of the position of Boston Police Officer." (emphasis added) (Exhibit 33)

45. The "Regulations for Initial Medical and Physical Fitness Standards Tests for Municipal Public Safety Personnel" establishes two categories of medical conditions, "Category A" and "Category B".

A "Category A" Medical Condition is "a medical condition that would preclude an individual from performing the essential job functions of a municipal police officer, or present a significant risk to the safety and health of that individual or others." (emphasis added)

A "Category B" Medical Condition is "a medical condition that, base on its severity or degree, may or may not preclude an individual from performing the essential job functions of a municipal police officer, or present a significant risk to the safety and health of that individual or others. (emphasis added) (Exhibit 36)

46. Using the same above-referenced "A" and "B" categories, the "Psychiatric" section of the regulations indicated that a "Category A" medical condition shall include: "disorders of behavior; anxiety disorders; disorders of thought; disorders of mood; disorders of personality." A "Category B" medical condition shall include: "a history of any psychiatric condition, behavior disorder, or substance abuse problem not covered in Category A. Such history shall be evaluated base on that individual's history, current status, prognosis, and ability to respond to the stressor's job;" or "any

other psychiatric condition that results in an individual not being able to perform as a police officer.” (emphasis added) (Exhibit 36)

47. On August 25, 2006, Dr. Mark Schaefer interviewed and performed an independent psychological consultation of the Appellant. (Testimony of Dr. Schaefer and Exhibit 35)

48. Dr. Schaefer is a licensed clinical and forensic psychologist. He has been performing psychological pre-screenings for police departments, including those in Watertown, Framingham, Lynn and Randolph, since 1980. He has administered and interpreted hundreds of MMPI's. In this capacity, Dr. Schaefer has served as a first level screener of police department applicants. He testified that, of the candidates he has interviewed over the years, he has only recommended bypassing about 5% for psychological reasons. Among those 5% of cases in which he believed the candidate should be disqualified for psychological reasons, Dr. Schaefer testified that, “the majority of time I’m overruled” by a 2nd level psychiatrist. (Testimony of Dr. Schaefer)

49. Dr. Schaefer concluded that, “I see no indication that this candidate currently manifests gross psychopathology or poor judgment, nor a significant history of anti-social behavior and/or impulse control problems which might interfere with job performance as a police officer. There was also no indication that the candidate experiences a loss of reality orientation under stress and no indications of any current dependence on alcohol or drugs. There was also no indication of any significant problems with either anxiety or depression as indeed, her job history appears very good, nor has there has (sic) been any notable turbulence in her social or emotional

life outside of work since the phase at the end of high school. Based on these results, I would not recommend disqualification of this candidate for the position of police officer for the Boston Police Department. (emphasis in original) (Exhibit 35)

50. Dr. Schaefer, when testifying during direct, indicated that he was aware that the Appellant, when arrested several years ago for shoplifting, had marijuana in her bag. Upon further inquiry by this Commissioner, he acknowledged that he was aware that the Appellant, when arrested, was in possession of marijuana, LSD and Barbituates. (Testimony of Dr. Schaefer)

51. Both Dr. Beck and Dr. Schaefer, in their written reports and their testimony before the Commission, suggested that the psychiatrists contracted by the Boston Police Department, including Dr. Reade, gave too much weight to the “paper and pencil” psychological tests taken by the Appellant. Further, while not explicitly stated, they both strongly implied that Dr. Reade misread the natural nervousness that any candidate would experience during such a high-stakes interview as something more serious. (Testimony of Dr. Beck and Dr. Schaefer)

Testimony of Appellant’s Supervisor at the Boston Police Department

52. The Appellant’s supervisor, Lt. Spillane, testified that the Appellant, as a civilian dispatcher/clerk, plays a vital role in the Operations division of the Boston Police Department and is hard-working and reliable employee who handles the fast-paced and stressful nature of her position with ease. (Testimony of Lt. Spillane)

Follow-Up Psychological Evaluation

53. Subsequent to this appeal, the Appellant was given a second conditional offer of employment via a new certification requested by the Boston Police Department --

and she was once again evaluated by Dr. Reade. Dr. Reade testified that, during this subsequent interview, the Appellant admitted to making “wrong assumptions” during the prior interview and was finally able to answer questions in a more candid, relaxed manner. Based on the more candid responses, Dr. Reade was able to conclude that the personality traits exhibited by the Appellant during the first interview were not “enduring traits” that would disqualify her from serving as a police officer.

(Testimony of Dr. Reade)

CONCLUSION:

The role of the Civil Service Commission is to determine "whether the Appointing Authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority." City of Cambridge v. Civil Service Commission, 43 Mass. App. Ct. 300, 304 (1997). Reasonable justification means the Appointing Authority's actions were based on adequate reasons supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law. Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex, 262 Mass. 477, 482 (1928). Commissioners of Civil Service v. Municipal Ct. of the City of Boston, 359 Mass. 214 (1971). G.L. c. 31, s. 2(b) requires that bypass cases be determined by a preponderance of the evidence. A "preponderance of the evidence test requires the Commission to determine whether, on the basis of the evidence before it, the Appointing Authority has established that the reasons assigned for the bypass of an Appellant were more probably than not sound and sufficient." Mayor of Revere v. Civil Service Commission, 31 Mass. App. Ct. 315 (1991).

Appointing Authorities are rightfully granted wide discretion when choosing individuals from a certified list of eligible candidates on a civil service list. The issue for the commission is "not whether it would have acted as the appointing authority had acted, but whether, on the facts found by the commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the commission to have existed when the Appointing Authority made its decision."

Watertown v. Arria, 16 Mass. App. Ct. 331, 334 (1983). See Commissioners of Civil Serv. v. Municipal Ct. of Boston, 369 Mass. 84, 86 (1975) and Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-728 (2003). However, personnel decisions that are marked by political influences or objectives unrelated to merit standards or neutrally applied public policy represent appropriate occasions for the Civil Service Commission to act. City of Cambridge, 43 Mass. App. Ct. at 304.

The Boston Police Department employs approximately 2,000 sworn officers. Inherent in their responsibilities is the ability to confront dangerous, stressful and life-threatening situations on a daily basis. The City's current crime statistics provide a glimpse of the dangers facing these public servants. During the first six months of 2006, the City reported 41 homicides, 173 rapes or attempted rapes, over 1,300 robberies or attempted robberies and over 2,300 cases of aggravated assault. (Boston Police Department: Reported Part One Crime in the City of Boston by Offense and by District / Area; January 1st – July 16th, 2006 Data)

Dr. Julia Reade, the Boston Police Department contracted psychiatrist who conducted the second-level psychological screening of the Appellant, stressed the high stakes nature

of a police officer's job and the impact their split second decision can have regarding their own safety as well as the safety of other police officers and the public.

Given the dangerous and stressful nature of the job, the psychological screening of potential candidates is a critical part of any police department's screening process and should be undertaken with the utmost seriousness and objectivity. To that end, the Boston Police Department developed a psychological screening plan for all police officer candidates that was approved by the state's Human Resources Division. As part of this screening process, every potential police officer recruit that is offered a conditional offer of employment, including the Appellant, must take the MMPI-2 and PAI exams, meet with a 1st Level Psychiatrist, and if he or she is given an unfavorable 1st Opinion is referred to Dr. Julia Reade for a 2nd Level Screening review.

In the instant case, both department psychiatrists reviewed the Appellant's background information and test scores and results prior to conducting their interviews. After examining and evaluating the totality of the information before them, both psychiatrists concluded that the Appellant was not psychologically fit for appointment as a Boston police officer.

Subsequent to her disqualification, the Appellant contracted with a psychologist and a psychiatrist, both of whom, after reviewing the same information and conducting their own interviews, reached the opposite conclusion. Both of those psychiatrists testified before the Commission. Dr. Beck, the above-referenced psychiatrist who testified on behalf of the Appellant, has impeccable credentials. The overarching testimony of Dr. Beck, however, centered on his opinion that an applicant must have a "diagnosable

disorder or history of a disorder” in order to be deemed unfit to serve as a police officer for psychological reasons. That is contrary to the plain language of the HRD-approved psychological screening plan, which is not being disputed by the Appellant. That plan states in part, “this (screening) process will be used to detect through a review of the background investigation, personal history as provided by the candidate, psychological testing, interviews, any psychological or behavioral characteristics, which would significantly interfere with the candidate’s successful performance of the essential functions duties (sic) of the position of Boston Police Officer.” (emphasis added)

Dr. Schaefer, the psychologist also contracted by the Appellant, has performed 1st level screening of police officer candidates for at least four other cities and towns in Massachusetts. He testified that, on average, that he only recommends bypassing a candidate for psychological reasons approximately 5% of the time, and on those occasions, he is overruled by a 2nd level screener the majority of the time. Both of these statistics raised the eyebrow of Dr. Reade, the Appointing Authority’s psychiatrist, who suggested that the 5% disqualification rate for a 1st level screener is low. Further, Dr. Reade testified that, as a 2nd level screener, she only overrules the 1st level screener 10-15% of the time.

Despite a track record of disqualifying what appears to be a relatively low percentage of police officer candidates for psychological reasons, Dr. Schaefer did appear to take a broader view (than his colleague Dr. Beck) of what would justify a psychological bypass, focusing his testimony on any “overriding psychological or substance abuse issues” that would disqualify a candidate. Even using this broader standard, Dr. Schaefer testified

that he saw nothing in the data that would disqualify the Appellant from serving as a police officer.

Both Dr. Beck and Dr. Schaefer, in their written reports and their testimony before the Commission, suggested that the psychiatrists contracted by the Boston Police Department, including Dr. Reade, gave too much weight to the “paper and pencil” psychological tests taken by the Appellant. Further, while not explicitly stated, they both strongly implied that Dr. Reade misread the natural nervousness that any candidate would experience during such a high-stakes interview as something more serious. After hearing the live testimony of Dr. Reade, I conclude that there is no evidence to substantiate the assertions of Drs. Beck and Schaefer on this front. First, Dr. Reade explicitly stated that she would never use a written examination as the sole reason for recommending that a candidate be bypassed for psychological reasons. Second, Dr. Reade offered credible testimony regarding the need to discount a candidate’s natural nervousness during these interviews and even talked about the proactive steps she takes to put a candidate at ease, such as talking about neutral topics. Even when talking about such neutral topics, the Appellant looked frozen and panic-stricken. When asked about more emotionally charged events, like the absence of her father from her life, Ms. Hart gave little or no information. She was similarly unforthcoming when asked about her juvenile criminal record and could not discuss her adolescent drug use, her brief psychological treatment, her car accidents or her decision to take time off from school. Based on this evasiveness, Dr. Reade concluded that Ms. Hart “was unable to reflect on any of her decisions or to consider her role in a given event.” Further, Dr. Reade concluded that, “with respect to her ability to function as a police officer, Ms. Hart, in my opinion, would have significant

difficulties because of her profound anxiety, her evasiveness, her difficulty managing stressful emotional situations and her lack of insight into her actions or decisions.”

The Appellant, who currently serves as a dispatcher in the Boston Police Department, points to the testimony of her current supervisor to show that she has the ability to successfully manage stressful situations. Even assuming *arguendo* that the Appellant has performed well in stressful situations in this administrative job, it does not sufficiently mitigate the valid and significant concerns raised by two qualified psychiatrists with a strong background in screening police officer candidates. Moreover, the Boston Police Department’s decision to bypass the Appellant, despite the recommendation of a BPD employee, is evidence that the decision was not motivated by political considerations or favoritism, but, rather, was reasonably based on the valid concerns raised during the psychological screening process.

Finally, the Appellant, in the post-hearing brief submitted to the Commission, argues that Dr. Reade’s subsequent decision, based on an interview six months later, to recommend the Appellant for appointment as part of a new round of hiring, shows that she (Dr. Reade) was wrong to recommend bypassing the Appellant for psychological reasons six months earlier. The Commission disagrees. Dr. Reade, and the Appointing Authority, made their decision in this case based on the information available at the time and the Appointing Authority has shown that its decision, at the time, was based on a preponderance of the evidence and reasonably justified. In fact, the turn of events, which occurred after the Appellant’s appeal was filed with the Commission, reaffirms the lack of any personal bias on the part of Dr. Reade. This Commissioner, upon learning near the end of a two-day hearing, that the Appellant was now likely to be appointed to the

Boston Police Department, questioned why this appeal had not been withdrawn and what, if any, relief the Appellant was now seeking from the Commission. The Appellant, still believing that the bypass six-months earlier was not justified, is now seeking a retroactive seniority date if and when she is appointed. While Appellants have a right to a full hearing before the Commission, the request to expedite this appeal, and place it ahead of approximately 800 other appeals pending before the Commission, would not have been granted if the Commission was aware of the positive turn of events for the Appellant.

After considering all the testimony and other evidence in the record, we conclude that the Boston Police Department had sound and sufficient reasons for bypassing the Appellant for selection as a police officer in the City of Boston for psychological reasons at the time and there is no evidence of inappropriate motivations or objectives that would warrant the Commission's intervention in this matter.

For all of the above reasons, the appeal under Docket No. G1-06-43 is hereby *dismissed*.

Civil Service Commission

Christopher C. Bowman, Commissioner

By vote of the Civil Service Commission (Bowman, Guerin, Marquis and Taylor, Commissioners [Goldblatt, Chairperson – Absent]) on November 22, 2006.

A true record. Attest:

Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A § 14(1) for the purpose of tolling the time for appeal.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the commission's order or decision.

Notice:

Leah M. Barrault, Esq.

Tsuyoshi Fukuda, Esq.

Martha O'Connor, Esq.